

REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-7 and 9-58 are pending, with Claims 7, 9-11, 13, 14, 20-24, and 28-58 withdrawn from consideration.

Amendment to the Claims

Claims 1-6, 12, 15-19, and 25-27 have been examined, with no claims being allowed. Claims 1 and 25 have been amended, and Claim 7 has been canceled.

Applicants have amended Claims 1 and 25 to clarify that the first and second surfaces of the barrier layer are not defined as separate portions coexisting on the same surface of the barrier layer but instead are opposite surfaces such that the first surface faces an inner surface of the garment and the second surface faces an outer surface of the garment. Applicants have further amended Claims 1 and 25 to require at least one of the elastomeric filaments of the low tension or high stretch zone to be joined to a first surface of the barrier layer and at least another one of the elastomeric filaments of the low tension or high stretch zone to be joined to the opposite surface of the barrier layer. Support for this amendment is found, for example, in Fig. 7 and at page 25, lines 20-22; and page 27, lines 10-12, of the specification.

In view of the barrier layer recited in Claim 1, Applicants respectfully request cancellation of Claim 7.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims has been reduced.

Election/Restriction

The Examiner indicates that Claims 7, 9-11, 13-14, 20-24, and 28-58 remain withdrawn from further consideration, and will be considered upon indication of allowable subject matter being present in the claim(s) from which they depend. Applicants have requested cancellation of Claim 7.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 1-5, 12, 15-19, and 25-26 under 35 U.S.C. §102(b) as being anticipated by 3M PCT Publication No. WO 95/34264 (hereinafter "PCT '264") is respectfully traversed.

PCT '264 discloses an elastic composite including one or two sheets thermally bonded directly to a single layer of molten, extruded elastic strands.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. PCT '264 does not disclose each and every element or limitation of amended Claims 1 and 25.

Applicants' invention as recited in independent Claims 1 and 25 requires a garment having high and low tension/stretch zones and a barrier layer positioned between at least two elastomeric filaments. More particularly, at least one of the elastomeric filaments of the low tension or high stretch zone is joined to a first surface of the barrier layer and at least another one of the elastomeric filaments of the low tension or high stretch zone is joined to the opposite surface of the barrier layer.

PCT '264 fails to disclose elastomeric filaments positioned on opposite surfaces of a barrier layer. Instead, PCT '264 discloses an elastic sheet-like composite including a single layer of elastic strands extruded onto one surface of a sheet material. When stretched longitudinally of its strands, the elastic sheet-like composite will be under greater tension adjacent its edges parallel to the strands than at its mid portion between those edges because of larger or more closely spaced strands adjacent its edges. The elastic sheet-like composite includes elastomeric strands of different sizes or spacing on a single surface of the sheet material, but fails to disclose any elastomeric strands joined to the opposite surface of the material.

For at least the reasons presented above, Applicants respectfully submit that amended Claims 1 and 25 are not anticipated by PCT '264. Because Claims 2-5, 12, and 15-19 depend from Claim 1, and Claim 26 depends from Claim 25, these claims are also not anticipated by PCT '264. Thus, Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 6 and 27 under 35 U.S.C. §103(a) as being unpatentable over PCT '264 in view of European Patent Application No. 0 688 550, hereinafter "EP '550," is respectfully traversed.

As explained above, PCT '264 fails to disclose or suggest high and low tension/stretch zones and elastomeric strands positioned on opposite surfaces of a barrier layer. To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The elastic sheet-like composites in PCT '264 are formed by extruding elastomeric strands onto one surface of a sheet material. There is no suggestion or motivation provided in PCT '264 that would lead a person skilled in the art to extrude elastomeric strands onto both surfaces of a sheet material.

Even if the teachings of PCT '264 were combined with the teachings of EP '550, the combination would fail to disclose or suggest Applicants' claimed invention. The Examiner suggests that substituting a two-ply barrier layer in place of the one-ply film barrier in PCT '264 would result in Applicants' claimed invention. However, such a replacement would still lack elastomeric strands on a second surface of the film layer. Thus, there would be no reasonable expectation of success in achieving Applicants' claimed invention based on the combination of PCT '264 and EP '550.

Another requirement for establishing a *prima facie* case of obviousness is that the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not

based on Applicant's disclosure. Neither PCT '264 nor EP '550 discloses or suggests elastomeric strands joined to both surfaces of a barrier layer. Absent impermissible hindsight, there is no suggestion in either PCT '264 or EP '550 to apply elastomeric strands to both surfaces of a barrier layer.

For at least the reasons given above, Applicants respectfully submit that the teachings of PCT '264 in view of EP '550 fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants believe that this case is now in condition for allowance. If the Examiner feels that any issues remain, then Applicants' undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



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